IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2724 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

C R PATEL

Versus

STATE OF GUJARAT

Appearance:

MR RAJESH K DESAI for Petitioner No. 1

MS. ROHINI ACHARYA, AGP, for Respondents No. 1-3

NOTICE SERVED BY DS for Respondent No. 1

RULE SERVED BY DS for Respondents No. 2-3

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 12/12/2001

ORAL JUDGEMENT

Rule. Service of rule is waived by leraned AGP Ms. Rohini Acharya for the respondents.

The petitioner has been aggrieved by an order dated 5.6.2000 whereby he has been reverted from the post of Technical Assistant to the post of Temporary Survey Mistry.

2. It has been submitted by learned advocate Shri Rajesh Desai appearing for the petitioner that the petitioner was promoted to the post of Technical Assistant by an order dated 6.8.1983 and by the impugned order he has been reverted to the post of Temporary Survey Mistry. It has been submitted by him that before approaching this court, the petitioner had made several representations, which have been annexed to the petition. It has been submitted by him that till today the petitioner has not heard anything from the respondents in pursuance of the representations made by the petitioner.

3. Learned AGP Ms. Acharya appearing for the respondents has submitted that it is true that the representations made by the petitioner have not been replied to, but possibly some decision has been taken on the file.

4. Looking to the facts of the case, without going into the merits of the case, I am of the view that this petition should be treated as a fresh representation and the concerned authority should take appropriate decision on the representations which have been already submitted and on this petition within a period of ten weeks from the date of receipt of this order by the concerned respondent.

5. It is pertinent to note that in Special Civil Application No. 2722 of 2001 a similar order passed by the respondents had been challenged. The said order has been set aside by this court by an order dated 12.12.2001 as the said order had been passed in violation of the principles of natural justice because before passing such an order, the petitioner in that case had not been heard by the concerned respondent. I am sure that the observations made in the judgment dated 12.12.2001 in Special Civil Application No. 2722 of 2001 shall be looked into by the concerned authority before taking final decision on the representations. If the decision taken by the government authorities is against the petitioner, the reasons for taking such a decision shall also be incorporated in the order which might be passed by the concerned authority.

6. The respondents shall take final decision as

directed hereinabove within a period of 10 weeks from the date of receipt of this order and the decision taken by respondent No. 1 shall be communicated to the petitioner within a period of 10 days from the date of taking the decision.

7. In view of this direction, the petition stands disposed of as allowed. Rule is made absolute to the above extent with no order as to costs. Direct service is permitted.

(A.R. Dave, J.)

(hn)